THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16709 of 2007

14.8.2007

Between:

T.Babu Reddy, S/o.Radha Reddy
And others

…Petitioners

And

The District Collector, Nellore District
And others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16709 of 2007

ORDER:

The six petitioners are residents of Kattuva revenue village, which forms part of Kaduluru Gram Panchayat – third respondent herein. Aggrieved by the direction issued by the second respondent (the Tahsildar, Tada Mandal, Nellore District) to the Panchayat Secretary of Kaduluru Gram Panchayat vide Rc.B/264/2007, dated 21.6.2007, the present writ petition is filed seeking its invalidation. Be it noted, the impugned letter would show that the land admeasuring Acs.14.90 in survey No.219/1 is poramboke land and that the Gram Panchayat has proposed to assign the said land to fourteen (14) landless poor persons.

It is the case of the petitioners that as per the revenue records the entire extent of land in survey No.219 is classified as grazing poramboke and therefore the same cannot be assigned under Para 15(3)(4)(ii)(a) of Board Standing Orders (BSO). It is also their contention that all grazing lands vest in the Gram Panchayat under Section 58 of Andhra Pradesh Panchayat Raj Act, 1994 (the Act, for brevity) and unless and until the Gram Panchayat is divested by a notification, the Tahsildar is not competent to assign the said land.

While making submissions on the above two contentions, learned Counsel has brought to the notice of this Court a Xerox copy of the resolution passed by the Gram Panchayat on 03.7.2007. As per this resolution, the Gram Panchayat has expressed no objection for assigning grazing poramboke in survey No.219/1. It is submitted that the said resolution was concocted by the present Sarpanch and that there was no meeting of all the Gram Panchayat members and there was no proper resolution.

BSO 15(3)(4)(ii), which is relevant, reads as under.

(ii) The assignment of the following classes of lands is

prohibited:-

(a) Poramboke tank-beds, fore-shore of tank-beds cattlestands, grazing lands and reserved lands (reserved for depressed class members or for any public purpose, such as schools, play grounds, hospitals, maternity centers, reading rooms, extension of house-sites, Panchayat purposes, town sites and lands in the proximity thereof.

(b) Land which has been unoccupied for 18 months and adjoins a reserved forest or an unreserved block of a square mile or more until the Collector has consulted the District Forest Officer and considered any objections, he may have to its assignment;

(c) Lands containing topes or valuable trees;

(d) Lands within cantonment limits;

(e) Lands reserved under Section 26 of the Forest Act;

(f) Lands within Port Limits;

(g) Lands near the sea coast within one furlong of high water mark of the sea;

(h) Water-course porambokes, namely, margins of channels, streams, etc.,

(i) Lands in the vicinity of aerodromes or landing grounds (i.e.,) within a belt of 200 yards.

(j) Lands containing minerals, quarries, etc.

(k) Padugais, i.e., land within the flood-bank of rivers, lanka lands not held on ryotwari tenure river accretions and reformed lands for which the former owners have ceased to pay assessment;

(l) Lands where “Pati Matti” is available and;

(m) Any other lands which are required or likely to be required for any public or any special purposes necessary for the provision of amenities to the community or connected with the development of the village:

Provided, however, that tank-bed lands, fore-shore lands and lands under categories (g), (j), (k) and (m) above, if not immediately required or if their occupation be not objectionable at present, may be leased with a condition for resumption, when required for any public purpose without payment of compensation for improvements, if any affected.

As per the above provision, poramboke lands like tank beds, grazing lands etc., are prohibited for the purpose of assignment. Therefore, if the land is grazing land, it cannot be assigned. Secondly, as per Section 58(1) of the Act, poramboke/grazing grounds, which at the disposal of the Government are not required, vest in the Gram Panchayat. Therefore, while considering the applications made by petitioners and others for assignment, the Tahsildar should keep in mind whether or not the land can be assigned. In the event of any assignment made with regard to grazing lands, petitioners are given liberty to prefer appeal before the Revenue Divisional Officer and then before the Joint Collector.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

August 14, 2007

NOTE:

Dispatch order copy by 21.8.2007.

(By order)

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